GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services – Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality - Disciplinary Proceedings instituted under Rule20 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 – Inquiry conducted – Penalty of stoppage of 2 Annual Grade Increments without cumulative effect – Imposed - Orders - Issued.

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MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (Vig.III-2) DEPARTMENT

G.O.Rt.No.60 Dated.10.01.2024

Read the following:-

1. From the CDMA, AP, Hyd Lr.Roc.No.3596206/2020/C2-1, dt.19.07.2020 & 20.12.2021.
2. G.O.Rt.No.234 MA & UD (Vig.II)Dept., dt.18.04.2022.
3. WSD of Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality, dt.Nil.
4. G.O.Rt.No.600, MA & UD (Vig.III) Dept.,dt.23.08.2022.
5. From the Inquiring Authority Lr.RoC.No.02/Gen.Enq/2022/A2, dt.17.05.2023.
6. Govt.Memo.No.1183057/Vig.III/2020, dt.21.07.2023.
7. Written representation of Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality, dt.23.08.2023.

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ORDER:

Based on the reports of the Commissioner & Director of Municipal Administration, AP, Guntur in the reference 1st read above, orders have been issued framing the following articles of charges against Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality under Rule-20 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 on the allegations of misappropriation of funds in Municipality vide reference 2nd read above:-

Charge No.1:

That Sri Y. Obulesu (Y.Nandan), former Municipal Commissioner, Gudur (N) Municipality, presently working as Additional Commissioner, Nellore Municipal Corporation, during his tenure from 12-07-2019 to 16-11-2020 has failed to supervise and check the Chitta collections frequently which leads to facilitate Sri S.D. Sandhani Basha, Shroff, Gudur Municipality for misappropriation of Government funds of Rs.28,35,809/- of daily collections for the period from 20-01-2020 to 11-03-2020 in Gudur Municipality during the period.

Charge No.2:

That Sri Y. Obulesu (Y.Nandan), former Municipal Commissioner, Gudur (N) Municipality, presently working as Additional Commissioner, Nellore Municipal Corporation, has failed to supervise and check the reconciliation between Cash collections received as per Chitta collections and entered in ERP and also the remittances in the Bank which results an amount of Rs.28,35,809/- of Municipal funds was misappropriated and delay in remittances during the year 2019-2020 which were temporarily misappropriated.

Charge No.3:

That Sri Y. Obulesu (Y.Nandan), former Municipal Commissioner, Gudur (N) Municipality, presently working as Additional Commissioner, Nellore Municipal Corporation, with the above mentioned acts has exhibited lack of integrity, devotion to duty and conduct, unbecoming of a member of service and thereby contravened Rule-3 of APCS (Conduct) Rules, 1964.

(PTO)

2. In the reference 3rd read above, the charged officer submitted his written statement of defense duly requesting to drop further action in the matter. Having not convinced with the explanations of all charged officers, Government appointed an Inquiring Authority to inquire into the charges framed against the charged ofcers, vide reference 4th read above.

3. In the reference 5th read above, the Inquiry Officer submitted inquiry report stating that all (3) charges held proved against Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality. In the reference 6th read above, a copy of Inquiry Report was communicated to the Charged Officer to offer his written representation in terms of Rule 21(2) of APCS(CCA) Rules, 1991.

4. In the reference 7th read above, the charged officer in his written representation, among others, has stated that the preliminary enquiry conducted by the RDMA and the report submitted by C&DMA, did not contain any iota of allegation against him. However, the inquiry officer brushed aside all these documents and framed charges against him. The inquiry officer has not taken the above documents into consideration as part of inquiry and came to an erroneous conclusion just to prove his own case as he being the officer who framed charges, though there is no basis for any of the charges. The IA was made judge of his own case and permitted to prove charges though there is no evidence and he is the same officer who framed the charges and subsequently become the inquiry officer, which cannot be permitted and it is contrary to settled principles of natural justice and administrative jurisprudence. He was unable to furnish his detailed explanation in the absence of newly introduced documents and requested to furnish copies quoted by the IA., He has taken every possible steps to recover the losses and there is no failure in his supervision. Hence, he has requested the Government to drop further action against him.

5. Government have examined the written representation of CO; keeping in view the findings of IA and report of CDMA., and it is observed that the name of Charged Officer was not mentioned in the preliminary enquiry report neither by the Head of Department nor by the Enquiry Officer. Government examined the preliminary enquiry report and found that the Municipal Commissioner, who is overall in-charge of the Municipality is also responsible for his negligence in discharging the duties and accordingly decided to initiate disciplinary proceedings against him. Hence, there is no pre-occupied mind by the inquiry officer in the preliminary enquiry report, as alleged. The contention of the Charged Officer is an after thought. It is open to the Charged Officer that the person appointed as an Inquiry Officer did not or could not have an open mind, having regard to the fact that it was he that had gathered evidence against delinquent by way of preliminary enquiry and reported the matter to the higher authority. There is a distinction between personal bias, in the sense that an officer is personally so situated with reference to a dispute that he cannot bring to bear upon the subject of the enquiry that independence of mind and impartially which one associates with an adjudicator and an official connection with a dispute at anterior stage which officer may have upon a matter in the discharge of his official duties. It cannot be said that, in all cases where an officer has dealt with a matter at an anterior stage, he becomes disqualified to deal with that matter at a subsequent stage on the basis of principle of bias. Whether he should be so considered to have been biased would depend upon facts and circumstances of each case. The Rule of Bias must be borne in mind at the time of appointment of Inquiry Officer and dealing with the request of the Charged Officer for change of Inquiry Officer. In the instant case, the Charged Officer has not raised the point of Rule of Bias at the time of appointing Inquiry Officer. The negligence and slack supervision was proved; keeping in view the orders/instructions in force during the inquiry, and accordingly, the written representation of the above charged officer is not convincing.

6. Government after careful examination of the matter; keeping in view of the findings of Inquiring Authority and written representation of the CO., hereby impose a penalty of withholding of 2 Annual Grade Increments without cumulative effect

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against Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality, in terms of Rule-9 of APCS(CCA) Rules, 1991, as he failed to supervise and check the chitta collections frequently which facilitated the then Shroff to misappropriate Government funds.

7. The Commissioner & Director of Municipal Administration, AP Vaddeswaram shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Y.SRILAKSHMI
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
Sri Y.Obulesu, former Municipal Commissioner, Gudur Municipality through the CDMA, AP, Vaddeswaram.
The Commissioner & Director of Municipal Administration, AP, Vaddeswaram.

Copy to:

The MA&UD(A) Department.
The Commissioner, Gudur Municipality.
The PS to M (MA & UD)
Sf/Sc (E 1183057).

// FORWARDED :: BY ORDER //

SECTION OFFICER